In the present case the proposed expenditure is substantially on nourishment and, as it is limited to the poor, it is a charitable expenditure if it can be considered as a form of relief of poverty. The only local case which resembles the present one is *Fatimah v. Logan*[2]. In that case (at p. 269) Hackett J. said :—

> No evidence was given to show the nature and object of these feasts and kandoories, and whether they are enjoined by the Mohammedan religion, and I am therefore left to form my opinion from the words of the Will itself, and I confess that looking at the description of the objects of the testator's bounty in the most liberal manner, it does not appear to me that they can, in any sense of the word, be called charitable. I do not see how it can be of any public utility to give feasts even when those feasts are to be enjoyed by the poor. For although it would be good charity to give alms to the poor, a feast can scarcely be regarded in the same light. On the whole I am of opinion that the gifts in the clause are not charitable, and that they are therefore void.

I think that that passage puts too much emphasis on the word "feast". While the relief of poverty constitutes one of the types of charity recognized by the law, it does not follow that every form of expenditure on the poor is charitable, e.g. a fund to pay for their admission to dog races would not be charitable, and one can imagine meals of a type that would not be charitable. In other words the relief of poverty means the provision of the more ordinary necessities of life. However, I do not consider that the mere use of the word "feast" suggests that the type of meal contemplated is of necessity one that brings it outside the scope of charity.

While this sort of relief is not an ideal or even a satisfactory method of relieving the poor in the absence of any regular system of poor relief, it cannot be said that it lacks that element of public utility which is a necessary part of charity in the legal sense. On this point I am prepared to over-rule the case of *Fatimah v. Logan.*

In the other cases where kandoories were considered, they were not restricted to the poor and therefore not charitable.

I find that all the objects of the trust are charitable which is sufficient to decide the appeal, which is accordingly dismissed with costs with the further direction that the Attorney-General is entitled to be reimbursed out of the deposit paid into Court by the plaintiff-appellant. The balance, if any, of that deposit is to be paid out to the trustees in respect of their costs. If that balance is insufficient to satisfy the costs of the trustees and they are unable to recover the amount outstanding on their costs from the plaintiff-appellant, they are to be indemnified out of the estate.

Willan, C. J. : — I agree with the judgment of the learned President of the Court in this appeal and also to over-ruling the case of *Fatimah v. Logan*[2] on the point dealt with in his judgment.

Jobling, J. : — I concur with the judgment of the learned President of the Court and have nothing to add.

Appeal Dismissed.

BASRAI BROTHERS vs. SYED IBRAHIM BIN OMAR ALSAGOFF.

[App. Civil Juris. (Brown, J.) November 21, 1947]

Increase of Rent (Restriction) Ordinance 1939 S. 8 (d) — Premises reasonably required by landlord — Control of Rent Ordinance 1947 — Interpretation Ordinance, S. 5 (d) (iv).

In this case the appellant was a tenant of certain premises which he was using as a dwelling house. The respondent landlord asked for possession on the ground that he required the premises for his own business purposes. He was also the landlord of other premises which were let and were being used as business premises. It was contended that it was unreasonable to turn the appellant out of his dwelling house when the respondent could equally well seek an order for possession of the other premises where only business or professional occupants would be affected.

Held, (1) that as the respondent had shown that the premises were reasonably required by him for his own business purposes, he had satisfied the requirement of S. 8 (d) of the Increase of Rent (Restriction) Ordinance; (2) that as the respondent had instituted the proceedings when the Increase of Rent (Restriction) Ordinance was still law, S. 5 (d) (iv) of the Interpretation Ordinance allowed the legal proceeding to be continued as if the repealing Ordinance that is, the Control of Rent Ordinance, 1947, had not been passed.

APPEAL FROM CIVIL DISTRICT COURT.

C. J. Koh for the Appellant.

John Laycock for the Respondent.

Brown, J. : — The only grounds in this appeal which are of any substance are grounds (d) and (e).

Ground (d) reads as follows :—

> The learned District Judge did not give due weight to the vital facts (i) that no alternative accommodation was offered or otherwise available to the Defendants and (ii) that greater hardship would be inflicted by granting than by refusing possession to the Plaintiff.

But, unlike the English Act, the Increase of Rent (Restriction) Ordinance, 1939, does not require that alternative accommodation should be offered, nor does it require proof that greater hardship would be inflicted by refusing an order for possession than by

granting it. The material requirement in section 8 (d) is that :—

> the premises are **reasonably required** by the landlord for occupation as a residence for himself, or for his own business trade or professional purposes.

The argument on this ground of appeal turned up on the words "reasonably required". The facts are that the appellant is a tenant of the premises and using them as a dwelling-house. The respondent landlord does not require the premises as a dwelling-house but as business premises. He is also the landlord of other premises at 2 Raffles Place which are now let and being used as business premises. Mr. C. J. Koh contends that it is unreasonable to turn the appellant out of his dwelling-house when the respondent could equally well seek an order for possession of 2 Raffles Place where only business or professional occupants would be affected. But the respondent by his evidence satisfied the learned District Judge that these premises are reasonably required by him for his own business purposes. Thereby he satisfied the requirement of the section. And while I am not prepared to say that a consideration of the matter urged by Mr. C. J. Koh may not have been relevant to the issue I can see nothing in the section which requires a landlord who has two sets of premises, one being used as a dwelling-house and the other being used as business premises, to seek an order for possession of the premises which are being used as business premises rather than an order for possession of the premises which are being used as a dwelling-house.

Ground (e) reads as follows :—

> The learned District Judge did not take into consideration the fact that the Increase of Rent (Restriction) Ordinance, 1939, was repealed and replaced by the Control of Rent Ordinance, 1947.

These proceedings were started when the Increase of Rent (Restriction) Ordinance, 1939, was still law. On the 16th September, 1947 when the case came on for trial, that Ordinance had been repealed by the Control of Rent Ordinance, 1947. Mr. C. J. Koh contends that the learned District Judge should have disregarded the provisions of section 8 (e) of the 1939 Ordinance (which was then repealed) and should have applied the provisions of section 14 of the 1947 Ordinance (which was then in force). In my opinion section 5 (d) (iv) of the Interpretation Ordinance supplies the answer to that contention. By that enactment the repeal does not affect any legal proceeding in respect of any right or remedy incurred under the repealed Ordinance. Mr. C. J. Koh contends that the respondent incurred no right until the date of the judgment on the 16th of September. But I think the true position is that the respondent always had his common law right to recover possession, which right he was prevented from enforcing by the 1939 Ordinance unless he could show that under section 8 (d) of that Ordinance he reasonably required the premises for himself. To that end he instituted these proceedings when that Ordinance was still law; and section 5 (d) (iv) of the Interpretation Ordinance allowed this legal proceeding to be continued as if the repealing Ordinance had not been passed. I may add that it does not appear from the record that this point was ever taken in the Court below, and the learned District Judge expressly says in his Grounds of Decision that "this action having been begun on the 7th August it was not suggested that the law applicable was other than that existing on that date". Mr. C. J. Koh assured me that he did take the point in the Court below, and I thought it right to allow him to argue it on this appeal.

The appeal is dismissed with costs.

Appeal Dismissed.

ALLIED COMPANY v. NETHERLANDS INDIES GOVERNMENT.

[App. Civil Juris. (Murray-Aynsley C.J., Singapore, Willan C.J., Malayan Union and Jobling, J.) December 5, 1947]

Procedure — Suit in the name of Netherlands Indies Government — Whether monarchical state must sue in name of monarch.

This was an application to set aside a writ which was issued in the name of the Netherlands Indies Government. It was argued that the Netherlands Indies Government was not a legal entity and was therefore not competent to sue in the High Court of the Colony of Singapore.

Held, (1) that the evidence in this case showed that the Plaintiff was a juristic person by the law of the Netherlands Indies and that the plaintiff was the person who was designed to sue by the law of the Netherlands Indies and therefore the Plaintiff was the person competent to sue and the person who should sue.

Cases referred to :—

(1) *Yzquierdo v. Clydebank Engineering and Shipbuilding Company* (1902) A.C. 524.

(2) *Columbia Government v. Rothschild* 57, E.R. 514.

(3) *United States of America v. Wagner* (1867) 2 L.R. Ch. App. Cases 582.

Appeal from decision in *Netherlands Indies Government v. Allied Company* (1947) M.L.J. 20. The Court of Appeal consisting of Murray-Aynsley C. J. Singapore, Willan